



FH

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

CWA/155578

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed February 17, 2014, under Wis. Admin. Code § HA 3.03, to review a decision by the Bureau of Long-Term Support in regard to Medical Assistance, a hearing was held on July 15, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner has demonstrated that the Include, Respect, I Self-Direct (IRIS) program should provide additional funding for supportive home care (SHC) hours.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

1

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Sue Hanks

Bureau of Long-Term Support  
1 West Wilson  
Madison, WI

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Milwaukee County.
2. Petitioner is enrolled in the IRIS program. He currently receives 76 hours of funding per month from IRIS for supportive care services (SHC). He also receives 76 hours per month of personal care worker services through fee-for-service Medicaid.

3. Petitioner asked the IRIS program to increase his funding to cover an additional 46 hours per month of supportive home cares. At \$17 per hour this amounts to \$782.00.
4. The IRIS program completed an assessment of Petitioner's needs and concluded that the hours were not needed.
5. Petitioner filed this appeal seeking reversal of a denial from the IRIS program of his request for IRIS funding of an additional 46 hours per month of supportive home care (SHC). The reason for the denial of Petitioner's request was that the IRIS program concluded that many of the services for which Petitioner was seeking the additional funding were personal cares that must be paid for by the Medicaid program.
6. Though the IRIS program is currently providing funding for Petitioner for 76 hours per month of SHC, the assessment that was completed after Petitioner's request for additional SHC funding concluded that Petitioner needs 47 (1.5 hours/day) hours of supportive home care services per month to be allocated as follows:

Breakfast	5.00
Lunch	5.00
Dinner	7.50
Housekeeping	8.75
Laundry	3.25
Changing bed linens	5.00
Grocery shopping	2.00
Shopping/incidentals	1.00
Lawn Care	.75
Snow removal	.75
Prescript, etc	.25
Attend med. appts.	8.00
Money mgt.	---

TOTAL: 47.25

7. Petitioner suffered a spinal cord injury in 1997 that has left him paralyzed from the waist down. He is unable to control his pelvis or use his legs or able to control his bladder or bowel. He is 34 years of age (██████████). He lives in the upper unit of a home owned by his mother. He suffers from pressure sores and open surgical wounds.

### **DISCUSSION**

The Include, Respect, I Self-Direct (IRIS) program was developed pursuant to a Medical Assistance waiver obtained by the State of Wisconsin, pursuant to section 6087 of the Deficit Reduction Act of 2005 (DRA), and section 1915(j) of the Social Security Act. It is a self-directed personal care program. The federal government has promulgated 42 C.F.R. §441.450 - .484 to provide general guidance for this program.

The *Medicaid Eligibility Handbook (MEH)* describes the IRIS program:

#### **37.1.1 Introduction**

The Include, Respect I Self-Direct ([\*IRIS\*](#)) program is a fee for service alternative to Family Care, PACE or Partnership for individuals requesting a long-term care support program in Family Care counties.

Under IRIS, the participant will be able to access services comparable to those provided under the Home- and Community-Based Waivers (HCBW) while managing an individual budget to meet their service needs.

That SHC services are provided by the IRIS program is not an issue here; rather, it is a factual question as to whether the documentation demonstrates that Petitioner should have additional hours of supportive home care. As I understand it, Petitioner has been receiving 76 hours of supportive home care (SHC) per month as well as 76 hours of personal care worker services. He requested an additional 46 hours per month of SHC and, again, that was denied.

I am concluding that the denial was correct. There are two reasons. First, many of the tasks for which Petitioner sought additional help are not supportive home cares but personal cares. Personal cares include bathing, dressing, grooming, toileting, feeding, transferring, mobility and medication management. These are services that are part of Petitioner's fee-for-service Medicaid cares. If more time is needed for these types of tasks Petitioner, with his provider, may file a prior authorization request with fee-for-service Medicaid seeking additional assistance.

Second, the supportive home tasks for which IRIS provides funding are those noted at Finding # 6. There is no question but that Petitioner requires a great deal of care. Even so, the decision as to how to allocate resources requires a data driven analysis of needs and the time necessary to meet those needs. Missing here is information detailing the amount of time necessary to perform the supportive home care that could support a decision to increase the funds allocated for SHC. I respectfully suggest that Petitioner make a chart of the supportive home cares noted at Finding # 6 and keep a detailed record as to why more time is needed as well as how much time the tasks take to perform and then, if warranted, ask for an increase in the funds and time allowed.

### **CONCLUSIONS OF LAW**

That the available evidence is not sufficient to demonstrate that additional hours per month of supportive home cares may be approved for funding by the IRIS program at this time.

**THEREFORE, it is**

**ORDERED**

That this appeal is dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

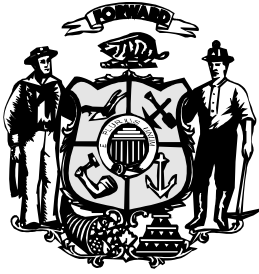
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 6th day of August, 2014

---

\sDavid D. Fleming  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on August 6, 2014.

Bureau of Long-Term Support